

REFERENCE TITLE: **stagnant water; pest control; notice**

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

# **HB 2036**

Introduced by  
Representative Barnes

**AN ACT**

**AMENDING SECTIONS 9-499 AND 11-268, ARIZONA REVISED STATUTES; RELATING TO  
PEST CONTROL.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-499, Arizona Revised Statutes, is amended to  
3 read:

4 9-499. Removal of rubbish, trash, weeds, filth, debris,  
5 stagnant water and dilapidated structures: removal by  
6 city: costs assessed: collection: priority of  
7 assessment; definitions

8 A. The governing body of a city or town, by ordinance, shall compel  
9 the owner, lessee or occupant of property to remove rubbish, trash, weeds or  
10 other accumulation of filth, debris, STAGNANT WATER or dilapidated structures  
11 which constitute a hazard to public health and safety from buildings,  
12 grounds, lots, contiguous sidewalks, streets and alleys. An ordinance shall  
13 require:

14 1. Written notice to the owner, the owner's authorized agent or the  
15 owner's statutory agent and to the occupant or lessee. The notice shall be  
16 served either by personal service or by certified mail. If notice is served  
17 by certified mail, the notice shall be mailed to the last known address of  
18 the owner, the owner's authorized agent or the owner's statutory agent and to  
19 the address to which the tax bill for the property was last mailed. The  
20 notice shall be given not less than thirty days before the day set for  
21 compliance and shall include the legal description of the property and the  
22 cost of such removal to the city or town if the owner, occupant or lessee  
23 does not comply. The owner shall be given not less than thirty days to  
24 comply. The city or town may record the notice in the county recorder's  
25 office in the county in which the property is located. If the notice is  
26 recorded and compliance with the notice is subsequently satisfied, the city  
27 or town shall record a release of the notice.

28 2. Provisions for appeal to and a hearing by the governing body of the  
29 city or town or a board of citizens that is appointed by the governing body  
30 on both the notice and the assessments, unless the removal or abatement is  
31 ordered by a court.

32 3. That any person, firm or corporation that places any rubbish,  
33 trash, WEEDS, filth or debris upon any private or public property not owned  
34 or under the control of that person, firm or corporation is guilty of a class  
35 1 misdemeanor or a civil violation and, in addition to any fine or penalty  
36 which may be imposed for a violation of any provision of this section, is  
37 liable for all costs which may be assessed pursuant to this section for  
38 removing, abating or enjoining the rubbish, trash, WEEDS, filth or debris.

39 4. IF SPRAYING OR OTHER ERADICATION OF MOSQUITOES OR OTHER PESTS FROM  
40 STAGNANT WATER SITES IS NECESSARY, THAT THE CITY OR TOWN POST PUBLIC NOTICES  
41 IN THE AREA OF THE SPRAYING OR ERADICATION.

42 B. The ordinance may provide that if any person with an interest in  
43 the property, including an owner, lienholder, lessee or occupant, after  
44 notice as required by subsection A, paragraph 1 of this section does not  
45 remove such rubbish, trash, weeds, filth, debris, STAGNANT WATER or

1 dilapidated structures and abate the condition which constitutes a hazard to  
2 public health and safety, the city or town may remove, abate, enjoin or cause  
3 their removal.

4 C. The governing body of the city or town may prescribe by ordinance a  
5 procedure for the removal or abatement, and for making the actual cost of the  
6 removal or abatement, including the actual costs of any additional inspection  
7 and other incidental connected costs, an assessment upon the property from  
8 which the rubbish, trash, weeds, ~~or other accumulations~~ FILTH, DEBRIS,  
9 STAGNANT WATER OR DILAPIDATED BUILDINGS are removed or abated.

10 D. The ordinance may provide that the cost of removal, abatement or  
11 injunction of such rubbish, trash, weeds, filth, debris, STAGNANT WATER or  
12 dilapidated structures from any lot or tract of land, and associated legal  
13 costs for abatement or injunctions, shall be assessed on the property from  
14 which the rubbish, trash, weeds, ~~accumulations~~ FILTH, DEBRIS, STAGNANT WATER  
15 or dilapidated structures are removed, abated or enjoined. The city or town  
16 may record the assessment in the county recorder's office in the county in  
17 which the property is located, including the date and amount of the  
18 assessment, the legal description of the property and the name of the city or  
19 town imposing the assessment. Any assessment recorded after July 15, 1996 is  
20 prior and superior to all other liens, obligations, mortgages or other  
21 encumbrances, except liens for general taxes. A sale of the property to  
22 satisfy an assessment obtained under ~~the provisions of~~ this section shall be  
23 made upon judgment of foreclosure and order of sale. A city or town shall  
24 have the right to bring an action to enforce the assessment in the superior  
25 court in the county in which the property is located at any time after the  
26 recording of the assessment, but failure to enforce the assessment by such  
27 action shall not affect its validity. The recorded assessment shall be prima  
28 facie evidence of the truth of all matters recited in the assessment and of  
29 the regularity of all proceedings prior to the recording of the assessment.

30 E. Assessments that are imposed under subsection D of this section run  
31 against the property until paid and are due and payable in equal annual  
32 installments as follows:

33 1. Assessments of less than five hundred dollars shall be paid within  
34 one year after the assessment is recorded.

35 2. Assessments of five hundred dollars or more but less than one  
36 thousand dollars shall be paid within two years after the assessment is  
37 recorded.

38 3. Assessments of one thousand dollars or more but less than five  
39 thousand dollars shall be paid within three years after the assessment is  
40 recorded.

41 4. Assessments of five thousand dollars or more but less than ten  
42 thousand dollars shall be paid within six years after the assessment is  
43 recorded.

44 5. Assessments of ten thousand dollars or more shall be paid within  
45 ten years after the assessment is recorded.

1 F. An assessment that is past due accrues interest at the rate  
2 prescribed by section 44-1201.

3 G. A prior assessment for the purposes provided in this section shall  
4 not be a bar to a subsequent assessment or assessments for these purposes,  
5 and any number of assessments on the same lot or tract of land may be  
6 enforced in the same action.

7 H. This section applies to all cities and towns organized and  
8 operating under the general law of this state, ~~and~~ and cities and towns  
9 organized and operating under a special act or charter.

10 I. For THE purposes of this section:

11 1. "Property" includes buildings, grounds, lots and tracts of land.

12 2. "Structures" includes buildings, improvements and other structures  
13 that are constructed or placed on land.

14 Sec. 2. Section 11-268, Arizona Revised Statutes, is amended to read:

15 11-268. Removal of rubbish, trash, weeds, filth, debris,  
16 stagnant water and dilapidated buildings; violation;  
17 classification; removal by county; costs assessed;  
18 collection; priority of lien; definition

19 A. The board of supervisors, by ordinance, shall compel the owner,  
20 lessee or occupant of buildings, grounds or lots located in the  
21 unincorporated areas of the county to remove rubbish, trash, weeds, filth,  
22 debris, STAGNANT WATER or dilapidated buildings which constitute a hazard to  
23 public health and safety from buildings, grounds, lots, contiguous sidewalks,  
24 streets and alleys. Any such ordinance shall require and include:

25 1. Reasonable written notice to the owner, any lienholder, THE  
26 occupant or THE lessee. The notice shall be given not less than thirty days  
27 before the day set for compliance and shall include the estimated cost to the  
28 county for the removal if the owner, occupant or lessee does not comply. The  
29 notice shall be either personally served or mailed by certified mail to the  
30 owner, occupant or lessee at his last known address, or the address to which  
31 the tax bill for the property was last mailed. If the owner does not reside  
32 on the property, a duplicate notice shall also be sent to the owner at the  
33 owner's last known address.

34 2. Provisions for appeal to the board of supervisors on both the  
35 notice and the assessments.

36 3. That any person, firm or corporation that places any rubbish,  
37 trash, WEEDS, filth or debris upon any private or public property located in  
38 the unincorporated areas of the county not owned or under the control of the  
39 person, firm or corporation is guilty of a class 1 misdemeanor and, in  
40 addition to any fine which may be imposed for a violation of any provision of  
41 this section, is liable for all costs which may be assessed pursuant to this  
42 section for the removal of the rubbish, trash, WEEDS, filth or debris.

43 4, IF SPRAYING OR OTHER ERADICATION OF MOSQUITOES OR OTHER PESTS FROM  
44 STAGNANT WATER SITES IS NECESSARY, THAT THE COUNTY POST PUBLIC NOTICES IN THE  
45 AREA OF THE SPRAYING OR ERADICATION.

1           B. The ordinance may provide that if any person with an interest in  
2 the property, including an owner, lienholder, lessee or occupant of the  
3 buildings, grounds or lots, after notice as required by subsection A,  
4 paragraph 1, does not remove the rubbish, trash, weeds, filth, debris,  
5 STAGNANT WATER or dilapidated buildings and abate the condition which  
6 constitutes a hazard to public health and safety, the county ~~may~~, at the  
7 expense of the owner, LIENHOLDER, lessee or occupant, MAY remove, abate,  
8 enjoin or cause the removal of the rubbish, trash, weeds, filth, debris,  
9 STAGNANT WATER or dilapidated buildings.

10           C. The board of supervisors may prescribe by the ordinance a procedure  
11 for such removal or abatement and for making the actual cost of such removal  
12 or abatement, including the actual costs of any additional inspection and  
13 other incidental costs in connection with the removal or abatement, an  
14 assessment upon the lots and tracts of land from which the rubbish, trash,  
15 weeds, filth, debris, STAGNANT WATER or dilapidated buildings are removed.

16           D. The ordinance may provide that the cost of removal, abatement or  
17 injunction of the rubbish, trash, weeds, filth, debris, STAGNANT WATER or  
18 dilapidated buildings from any lot or tract of land located in the  
19 unincorporated areas of the county and associated legal costs be assessed in  
20 the manner and form prescribed by ordinance of the county upon the property  
21 from which the rubbish, trash, weeds, filth, debris, STAGNANT WATER or  
22 dilapidated buildings are removed, abated or enjoined. The county shall  
23 record the assessment in the county recorder's office in the county in which  
24 the property is located, including the date and amount of the assessment and  
25 the legal description of the property. Any assessment recorded after ~~the~~  
26 ~~effective date of this amendment to this section~~ AUGUST 6, 1999 is prior and  
27 superior to all other liens, obligations or other encumbrances, except liens  
28 for general taxes and prior recorded mortgages. A sale of the property to  
29 satisfy an assessment obtained under this section shall be made on judgment  
30 of foreclosure and order of sale. The county may bring an action to enforce  
31 the lien in the superior court in the county in which the property is  
32 located at any time after the recording of the assessment, but failure to  
33 enforce the lien by such action does not affect its validity. The recorded  
34 assessment is prima facie evidence of the truth of all matters recited in the  
35 assessment and of the regularity of all proceedings before the recording of  
36 the assessment.

37           E. Assessments that are imposed under subsection D run against the  
38 property until they are paid and are due and payable in equal annual  
39 installments as follows:

40           1. Assessments of less than five hundred dollars shall be paid within  
41 one year after the assessment is recorded.

42           2. Assessments of five hundred dollars or more but less than one  
43 thousand dollars shall be paid within two years after the assessment is  
44 recorded.

1           3. Assessments of one thousand dollars or more but less than five  
2 thousand dollars shall be paid within three years after the assessment is  
3 recorded.

4           4. Assessments of five thousand dollars or more but less than ten  
5 thousand dollars shall be paid within six years after the assessment is  
6 recorded.

7           5. Assessments of ten thousand dollars or more shall be paid within  
8 ten years after the assessment is recorded.

9           F. A prior assessment for the purposes provided in this section is not  
10 a bar to a subsequent assessment or assessments for such purposes, and any  
11 number of liens on the same lot or tract of land may be enforced in the same  
12 action.

13           G. Before the removal of a dilapidated building the board of  
14 supervisors shall consult with the state historic preservation officer to  
15 determine if the building is of historical value.

16           H. If a county removes a dilapidated building pursuant to this  
17 section, the county assessor shall adjust the valuation of the property on  
18 the property assessment tax rolls from the date of removal.

19           I. ~~As used in~~ FOR THE PURPOSES OF this section occupant does not  
20 include any corporation or association operating or maintaining rights-of-way  
21 for and on behalf of the United States government, either under contract or  
22 under federal law.

23           J. ~~As used in~~ FOR THE PURPOSES OF this section, "dilapidated building"  
24 means any real property structure that is in such disrepair or is damaged to  
25 the extent that its strength or stability is substantially less than a new  
26 building or it is likely to burn or collapse and its condition endangers the  
27 life, health, safety or property of the public.